

Exhibit AN

June 12, 2024

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Civil Docket No. 3:16-md-2738-FLW-LHG

IN RE:

JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING,
SALES PRACTICES AND PRODUCTS
LIABILITY LITIGATION

HESS MOTION AND
INSPECTION MOTION
VIA REMOTE ZOOM
VIDEOCONFERENCE

* * * *

WEDNESDAY, JUNE 12, 2024

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BEFORE: SPECIAL MASTER JOEL SCHNEIDER, USMJ, RETIRED
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<p style="text-align: right;">Page 82</p> <p>1 and Mr. Hess and others, it is having them reproduce 2 or do work that they would not be doing otherwise. 3 Because they have Dr. Longo's opinions in the MDL, he 4 has all that he's going to be opining on right now. 5 And so there is just absolutely no precedent to allow 6 this. 7 And it would be intrusive, it would 8 really paralyze Dr. Longo's lab. He has a large 9 commercial lab and it does a lot of other things, 10 which we've listed in our brief. And it would 11 require a tremendous disruption in order for this to 12 take place. 13 There are samples from other cases, not 14 just talc cases, but other cases that these analysts 15 are working on. There are other materials. It would 16 be incredibly expensive and obtrusive. The nature of 17 the burden really can't be overstated. 18 But, your Honor, you got to sort of 19 factually some of the heart of this. 20 Number one, is there is talc that 21 remains and can be tested by Johnson & Johnson's 22 experts, if they so choose. And in many instances, 23 they have not elected to do so. And so that's their 24 choice. They are not, under the law, allowed to 25 compel Dr. Longo to do testing and then watch them</p>	<p style="text-align: right;">Page 83</p> <p>1 test when they can do that testing on their own. 2 You heard about the samples, and I just 3 want to correct something. You know, there were 4 Chinese historical samples that are part of Dr. 5 Longo's fourth supplemental report, so MDL samples. 6 Both Imerys and J&J. And so they have opportunity to 7 do this themselves. 8 You heard this discussion from Matt 9 about methodology. What we want is to observe the 10 latest methodology. Again, what I said before is in 11 each individual report he described the methodology 12 he employed. It has been adjusted over time as he's 13 learned more and they have had more experience. 14 But the most recent reports, and I 15 would say one that hasn't been mentioned at all, 16 we've only heard about the Valadez case, but there 17 are numerous other cases, not the least of which is 18 Ms. Newsome's case, which is an MDL plaintiff, 19 bottles that she retained were tested and chrysotile 20 asbestos was located. There is a methodology 21 described in that report including not only what they 22 did from a mechanical standpoint, but the microscope 23 that was used, all the things that were a part of 24 that methodology. Dr. Longo was not asked one 25 question about that report at all. He was asked</p>
<p style="text-align: right;">Page 84</p> <p>1 about his general methodology. And if they want to 2 replicate that, they can do that. 3 As you pointed out, Dr. Su and Dr. 4 Wiley in particular -- Dr. Sanchez comments less on 5 the PLM work than the others, theirs is more 6 detailed, but they are well-recognized experts and 7 they can get a sample of Johnson's Baby Powder and 8 they could replicate Dr. Longo's methodology, if they 9 chose to. But they have not. And so there is no 10 reason to compel this of Dr. Longo. 11 Further, in terms of what would happen 12 at some inspection if this burden were put on Dr. 13 Longo, would get down to a photomicrograph, which 14 they already have in spades in every report. And 15 they are commenting on those now and they have never 16 expressed in their expert reports, Dr. Wiley and Dr. 17 Su, that they need more. And in Dr. Sanchez's case, 18 he has testified in nearly all, if not all, the 19 recent mesothelioma trials, and he has testified 20 fully and never once expressed having inadequate 21 information in order to provide his opinions. 22 And in the case of Zimmerman, and I 23 want to correct something that was in error in the 24 Plaintiffs' brief, it said there hadn't been testing 25 in some of the cases. Well, Zimmerman is a case</p>	<p style="text-align: right;">Page 85</p> <p>1 where there was testing by Dr. Sanchez that had not 2 been disclosed in the MDL, so we weren't aware of 3 that. But he tested the samples himself and he said 4 I didn't find any asbestos. That is really talc. 5 And what Dr. Longo is identifying is misidentified. 6 So they are fully capable of defending this case as 7 they've done in other cases in recent years and 8 certainly without -- without having an inspection. 9 And that's been two-and-a-half years where this has 10 never been requested. 11 And I will say, not only is there no 12 other case where this has been allowed in any 13 reported case, but there is no evidence that it's 14 ever been allowed in this type of litigation, 15 asbestos litigation, for decades. I mean this is the 16 most obstructive, invasive request I think that has 17 been made certainly in the talc litigation and I 18 would suggest others. 19 And let's get down to it, you know, 20 Judge, this is really -- this is, you know, in the 21 last round of testing, the debate was is it 22 asbestiform or not asbestiform, looking at 23 photomicrographs and images of fibers. And so that 24 was from TEM. Now the debate has become the color 25 and it is whether it's yellow or magenta,</p>

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1 learning experience for those people. They saw some
2 terrific lawyers argue some very, very difficult
3 issues. The briefs were superb, as usual and as
4 expected. And it's just a pleasure for me to deal
5 with professionals, no matter how the ultimate
6 resolution turns out.

7 Theresa, thank you very much. I'm sure
8 you will continue your career record of not making
9 one mistake in a transcript, so that's always
10 appreciated.

11 Thank you, everybody. We're adjourned.
12 (Hearing Adjourned)
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CERTIFICATE

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2
3 I, Theresa Mastroianni Kugler, a Notary Public
4 and Certified Court Reporter of the State of New
5 Jersey, do hereby certify that the foregoing is a
6 true and accurate transcript of the testimony as
7 taken stenographically by and before me at the time,
8 place, and on the date hereinbefore set forth.
9

10 I DO FURTHER CERTIFY that I am neither a
11 relative nor employee nor attorney nor counsel of any
12 of the parties to this action, and that I am neither
13 a relative nor employee of such attorney or counsel,
14 and that I am not financially interested in the
15 action.
16



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19
20 Theresa Mastroianni Kugler,
21 Certified Court Reporter
22 Certificate No. XIO857
23 Notary Public, State of New Jersey
24 Commission Expires July 11, 2026
25 Commission No. 2410394
Date: June 17, 2024

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